

REMARKS

Applicant would like to express appreciation to the Examiner for the detailed Official Action provided. Upon entry of the present amendment, claims 1, 12 and 13 will have been amended and claims 3 and 14 will have been canceled. Claims 1-2, 4-13 and 15 remain pending in the present application, with claims 15 standing allowed.

Applicant gratefully acknowledges the Examiner's indication of the allowability of claims 3, 13 and 14, and of the allowance of claim 15. In this regard, Applicant notes that independent claim 1 has been amended to incorporate the limitations of allowable claim 3, claim 12 has been amended to incorporate the limitations of allowable claim 14, and claim 13 has been amended into independent form and to incorporate the limitations of base claim 1.

The Examiner has rejected claim 12 under 35 U.S.C. § 112, second paragraph, as being indefinite, finding that several limitations thereof lack antecedent bases. By the present amendment, Applicant has amended independent claim 12 to recite ". . . said ~~image data recording processor recorder . . .;~~" ". . . said ~~image data transmitting device that transmits said image data . . .;~~" and ". . . said ~~determining device that determines . . .~~" thereby obviating the Examiner's rejection. Further, although Applicant respectfully disagrees with the Examiner's rejection under 35 U.S.C. § 112, second paragraph, in that one skilled in the art would readily understand what the objected-to elements are, Applicant has amended these

claims solely to expedite the patent application process in a manner consistent with the PTO's patent business goals, 65 Fed. Reg. 54603 (September 8, 2000). It is thus respectfully requested that the Examiner withdraw the rejection of claim 12 under 35 U.S.C. § 112, second paragraph.

The Examiner has rejected claims 1-2, 4-5 and 11-12 under 35 U.S.C. § 102 (b) as being anticipated by KATO (U.S. Patent No. 5,898,824). As discussed above and solely in order to advance the prosecution of the present application as discussed above, Applicant has amended independent claim 1 to incorporate the limitations of allowable claim 3, amended claim 12 to incorporate the limitations of allowable claim 14, amended claim 13 into independent form and to incorporate the limitations of base claim 1, and has canceled claims 3 and 14, which should not be taken as an acquiescence by Applicant as to the appropriateness of the rejection. Further, Applicant expressly reserves the right to submit claims of a related scope in another application. Thus, the cancellation of the claims in the present application is without prejudice.

Absent a disclosure in a single reference of each and every element cited in a claim, a *prima facie* case of anticipation cannot be made under 35 U.S.C. § 102. Since the applied reference fails to disclose each and every element recited in independent claims 1 and 12, these claims, and the claims dependent from claim 1, are not anticipated thereby. Accordingly, the Examiner is respectfully requested to withdraw the rejection of independent

claims 1 and 12 (and the claims dependent from claim 1), under 35 U.S.C. § 102(b).

With respect to the Examiner's above rejection of dependent claims 6-8 and 9-10 under 35 U.S.C. § 103(a), since these claims are dependent from allowable independent claim 1, which is allowable for at least the reasons discussed *supra*, these dependent claims are also allowable for at least these reasons. Further, all dependent claims recite additional features which further define the present invention over the references of record. It is thus respectfully submitted that all rejected claims are patentably distinct from the references of record.

Thus, Applicant respectfully submits that each and every pending claim of the present application meets the requirements for patentability under 35 U.S.C. §§ 102 and 103, and respectfully requests the Examiner to indicate the allowance of each and every pending claim in the present application.

COMMENTS ON STATEMENT OF REASONS FOR THE INDICATION OF
ALLOWABLE SUBJECT MATTER

In response to the Statement of Reasons for the Indication of Allowable Subject Matter, mailed by the U.S. Patent and Trademark Office on September 10, 2003, along with the above-noted Official Action, Applicant wishes to clarify the record with respect to the basis for patentability of the allowed claims in the present application. In this regard, while Applicant does not disagree with the Examiner's indications that certain identified features are not disclosed by the prior art references, as noted by the Examiner, Applicant further wishes to clarify that each of the independent claims in the present application recites a particular combination of features, and the basis for patentability of each of these claims is further based on the particular totality of the features recited therein. The dependent claims set forth additional basis for their patentability in accordance with their recited limitations as well as in accordance with the particular limitations of the respective base claims.

SUMMARY AND CONCLUSION

In view of the fact that none of the art of record, whether considered alone, or in any proper combination thereof, discloses or suggests the present invention, reconsideration of the Examiner's action and allowance of the present application are respectfully requested and are believed to be appropriate.

Applicant notes that this amendment is being made to advance prosecution of the application to allowance, and with respect to the allowable features incorporated into claims 1 and 12, as well as the amendment of allowable claim 13 into independent form, should not be considered as surrendering equivalents of the territory between these claims prior to the present amendment and the amended claims. Further, no acquiescence as to the propriety of the Examiner's rejection is made by the present amendment. All other amendments to the claims which have been made in this amendment, and which have not been specifically noted to overcome a rejection based upon the prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

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Should the Examiner have any questions or comments regarding this Response, or the present application, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully submitted,
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